

INITIAL STATEMENT OF REASONS:

This action amends provisions governing the searches and inspections for visitors within the California Department of Corrections and Rehabilitation (Department). California Code of Regulations, Section 3173.2 is being amended to delete probable cause and adopt reasonable suspicion.

These regulations are necessary based on the need to prevent the introduction of contraband into the Facility/Institutions and to provide a safe environment for staff, inmates and visitors alike. They will ensure that proper legal standards are followed for searches involving visitors, which in turn would allow the district attorneys to take legal action against those that custody staff reasonably suspect may introduce contraband while visiting.

The Department has determined that no reasonable alternatives to the regulations have been identified or brought to the attention of the Department that would lessen any adverse impact on small business.

The Department has made an initial determination that the action will not have a significant adverse economic impact on business. Additionally, there has been no testimony or other evidence provided that would alter the Department's initial determination.

The Department has determined that this action imposes no mandates on local agencies or school districts, or a mandate, which requires reimbursement pursuant to Part 7 (Section 17561) of Division 4.

The Department must determine that no alternative considered would be more effective in carrying out the purpose of this action or would be as effective, and less burdensome to affected private persons than the action proposed.

Subsection 3173.2(a) is amended to delete probable cause and adopt reasonable suspicion in order to ensure that proper legal standards for visitor searches are followed which would provide a safe, healthy and positive environment for staff, inmates and visitors alike. The Department's intent is not punitive in nature, it is meant as a preventative measure to protect the public by allowing custody staff to search a visitor who they reasonably suspect may introduce contraband into the Facility/Institution. This in turn will allow district attorneys to take legal action against those who attempt to introduce contraband into the Facility/Institution and assist as a preventative measure as well.

Subsections 3173.2(b) through (g)(1) are unchanged.

Subsection 3173.2(g)(2) is amended to delete probable cause and adopt reasonable suspicion in order to ensure that proper legal standards for visitor searches are followed which would provide a safe, healthy and positive environment for staff, inmates and visitors alike. The Department's intent is not punitive in nature, it is meant as a preventative measure to protect the public by allowing custody staff to search a visitor who they reasonably suspect may introduce contraband into the Facility/Institution. This in turn will allow district attorneys to take legal action against those who attempt to introduce contraband into the Facility/Institution and assist as a preventative measure as well.